IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 20220 of 2004

Between:

M.Prabhakar, s/o Kistaiah,
Large Size Cooperative Society Ltd., Husnabad, r/o Husnabad,
Husnabad Mandal, Karimnagar District.

..... PETITIONER

AND

1 The Large Size Cooperative Society Ltd., Husnabad, Husnabad Mandal, Karimnagar District rep., by its Chairperson, Persons-in-charge Committee.
2 The Deputy registrar of Cooperative Societies/ Divisional Cooperative

Officer, Karimnagar, Karimnagar District.
3 The Joint Registrar of Cooperative Societies/ District Cooperative Officer, Karimnagar District, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus i) declaring the proceedings issued by the 1st respondent in Rc.No.1/2004, dated 19-10-2004 placing the petitioner under suspension without holding enquiry or without issuing any show cause notice, as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against by law No.12 of the Special By Laws relating to the service conditions of the employees working in cooperative societies and out of jurisdiction and against the powers vested in the 1st respondent, consequently set aside the same.

Counsel for the Petitioner:MR.NANDIGAM KRISHANA RAO

Counsel for the Respondent No.1. Mr.P.M.GOPAL RAO

Counsel for the Respondents 2 & 3: GP FOR COOPERATION

The Court made the following :ORDER:

The Writ Petition is filed seeking to declare the proceedings issued by the 1st respondent in Rc.No.1 of 2004 dated 19-10-2004 by placing the petitioner under suspension without holding enquiry or without issuing any show cause notice, as illegal, arbitrary and unconstitutional.

The learned Counsel appearing for the petitioner submits that on a bare reading of the impugned suspension order makes it clear that the orders are passed as punishment. As per bylaw 9 of the special bylaws relating to the service conditions of the employees working in cooperative societies, without holding any enquiry no punishment can be inflicted on any employee. Therefore, the impugned orders have been suffering from legal infirmities. It is further submitted that the 1st respondent illegally not paying the subsistence allowance to the petitioner during the suspension period.

On the other hand the learned Counsel for the respondents, P.M.Gopal Rao, contended that impugned suspension proceedings are of pending enquiry and do not by way of punishment and therefore the impugned proceedings do not suffer from any legal infirmities, so as to call for interference of this Court.

It is seen from the impugned order that vide letter Sri B.Prabhakar Rao, Supervisor of Branch, Husnabad, alleged that the fertilizers worth Rs.7,54,502/- were sold by the Petitioner and not taken into stock register and not maintained books of accounts properly and thus worth of Rs.7,54,502/- have misappropriated and misutilized by the petitioner. The Person-in-charge of the 1st respondent-committee in its meeting held on 19-10-2004 decided to place the petitioner under suspension of services for six months.

The impugned order does not indicate whether it is a suspension by way of punishment or suspension pending enquiry.

The learned Counsel for the 1st respondent submits that the impugned proceedings are of suspension pending enquiry.

Recording the submission made by the learned Counsel for the 1st respondent, the Writ Petition is disposed of. Further, it is made clear that the writ petitioner is entitled as a matter of right the subsistence allowance as per rules and

bylaws of the 1st respondent. It is also directed that enquiry shall be completed within a period of four months from the date of receipt of a copy of this order. No costs.

SD/- SHAIK JOHN BASHA

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Chairperson, Persons-in-charge Committee, the Large Size Cooperative

Society Ltd., Husnabad, Husnabad Mandal, Karimnagar District

2 The Deputy registrar of Cooperative Societies/ Divisional Cooperative

Officer, Karimnagar, Karimnagar District.

3 The Joint Registrar of Cooperative Societies/ District Cooperative Officer, Karimnagar District, Karimnagar.

4. 2CCs to G.P. for Cooperation, High Court Buildings, Hyderabad (OUT).

5. 2CD copies.

P.M.

DATED: 31-12-2004

ORDER

WP.NO. 20220 OF 2004

Disposing of the WP

Without costs.